

House Committee Jurisdiction and Referral: Rules and Practice

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Committee jurisdiction is determined by a variety of factors. Paramount is House Rule X, which designates the subject matter within the purview of each standing committee. House Rule X, however, is both largely broad and the product of an era in which governmental activity was not so extensive and relations among policies not so intertwined as now. Most of Rule X was drawn from 19th and 20th century precedents and codified in the Legislative Reorganization Act of 1946. Although the rule underwent modest revisions in 1974 and 1980, as well as more extensive changes in the 104th and 108th Congresses, topic omissions and a lack of clarity, as well as overlaps among committees in areas of jurisdiction, still exist. Accordingly, the formal provisions of the rule are supplemented by an intricate series of precedents and informal agreements governing the referral of legislation.

In general, based on precedent, once a measure has been referred to a given committee, it remains the responsibility of that committee. If the measure is enacted into law, amendments to the law are presumed to be within the originating committee's jurisdiction. Relatedly, bills that are more comprehensive than the measure they amend or supersede are presumed to be within the jurisdiction of the committee reporting the more comprehensive measure. The resultant accretion of subject responsibility greatly broadens the range and scope of jurisdictional subjects assigned to each committee.

Formal agreements, drafted among committees to stipulate their understandings of jurisdictional boundaries, have been used in recent years. House parliamentarians, in advising the Speaker, have generally considered themselves bound by such agreements when they are supported by all the committees concerned and when the House, usually by unanimous consent, has given its assent to such agreements.

In considering jurisdictional overlaps, a distinction needs to be made between legislative and oversight jurisdiction. The former denotes the authority to report measures to the full chamber; the latter, to review or investigate. Although oversight jurisdiction may be the product of a specific legislative enactment, it also accrues when committees accept responsibilities for broad topical areas. Hence, there are more likely to be broader and more frequent overlaps in oversight jurisdiction than in legislative jurisdiction. Legislative jurisdiction, however, occasions the majority of open conflicts between committees.

Several other factors should be considered, although these are not formal or acknowledged in rules or precedents.

First, when determining the appropriate referral of a bill, the Speaker and parliamentarian may take into account the committee assignment and generally acknowledged issue expertise of a measure's sponsor. This is especially true if the sponsor is a committee or subcommittee chairman or ranking minority Member.

Second, the timing of a measure's introduction may affect committee referral. For example, if a Member introduces a bill following hearings on, or press coverage of, a subject involving that Member, there could be an implicit understanding that the sponsor wants the bill referred to the Member's committee in order to legislate on what has recently been studied.

Third, even if a committee did not originally consider a measure, representation from its membership at the conference on the measure could be used to argue that the committee has an implicit claim over the measure's subject.

Fourth, on some occasions, jurisdiction over specific authorizing legislation has been influenced or, arguably, specifically determined by which Appropriations Committee subcommittee considers appropriations requests for the programs authorized. As well, even though House rules forbid legislating in an appropriations bill, the Appropriations Committee occasionally makes

legislative policy in an annual, supplemental, or continuing appropriations bill even though that policy has not been considered by the appropriate authorizing committee. Relatedly, budget reconciliation instructions (which in mandating budget cuts may contain programmatic changes) may possibly have an influence on committee jurisdiction.

In 1974, with the adoption of the Committee Reform Amendments, the House authorized the Speaker to refer measures to more than one committee, in a joint, split, or sequential manner. In the 20 years following the onset of multiple referrals, they were used frequently, often to acknowledge overlapping jurisdictional issues and often to avoid choosing among committees' jurisdictional prerogatives. Two results were to further broaden jurisdictions and further fragment policy and program responsibility.

In 1995, with the rules changes adopted in the 104th Congress, the Speaker's authority to multiply refer measures was changed. The Speaker could no longer refer measures jointly and was authorized instead to designate a primary committee. Split and sequential referrals were still allowed. Further, the Speaker could impose time limitations on any committee receiving a referral.

In 2003, with the rules changes adopted in the 108th Congress, the Speaker was authorized to refer measures to more than one committee without designation of a primary committee under "exceptional circumstances."

Author Information

Judy Schneider
Specialist on the Congress

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